

Members

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Sen. Timothy Lanane
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Rep. Ralph Ayres
Rep. Robert Kuzman
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COMMISSION ON COURTS

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MEETING MINUTES¹

Meeting Date: September 26, 2006
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Richard Bray, Chairperson; Sen. David Long; Sen. John Broden; Rep. Ralph Ayres; Rep. Ryan Dvorak; G. Michael Witte; Larry Bye; Judge John Baker (for Chief Justice Randall Shepard).

Members Absent: Sen. Timothy Lanane; Rep. Kathy Richardson, Vice-Chairperson; Rep. Robert Kuzman; Ron Tabacynski; Jacqueline Rowan.

Sen. Richard Bray, Chairperson of the Commission on Courts (Commission), called the meeting to order at 1:43 P.M.

The first person to testify was Judge Terrence Cody of the Floyd Circuit Court. Judge Cody stated that the Floyd Circuit, Superior, and County Courts have shared one magistrate since 1999. He said that, because of increasing caseloads and increasing

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

population in the county, all three courts were in immediate need of a second magistrate. He stated that the 2005 Weighted Caseload Report (WCR) also showed the county was currently in need of additional judicial officers.²

Judge Cody said Floyd County would need an additional judge by 2009. He said that while the resources currently were not available to support a new court in Floyd County, the county could accommodate a new magistrate. However, he felt there was enough time for local elected officials to plan and prepare for a new court if the court was not established until 2009.

After Commission discussion, a motion was made and seconded that the Commission endorse an additional magistrate for Floyd County beginning July 1, 2007. The motion was adopted by unanimous voice vote.

The next person to testify was Judge Steven Cox from the Franklin Circuit Court. Judge Cox distributed letters (Handout #1) to the Commission from himself, Franklin County Prosecuting Attorney Melvin Wilhelm, Eugene Stewart, attorney for the Franklin County Commissioners, and Donald Williams, President of the Franklin County Council, expressing support for the appointment of a magistrate in Franklin County.

Judge Cox said that by July of 2005 more cases had been filed in his court than in all of 2004. He stated that over the past decade Franklin County had experienced an increase in population due to people relocating from Cincinnati, Hamilton, and Oxford, Ohio. He also stated that the WCR* indicated the county did not have enough judicial officers to handle its current caseload.

Judge Cox said that while Franklin County currently did not have the resources to add a second court, the county did have the space and the resources for a magistrate.

The next person to testify was Rep. Bob Bischoff. Rep. Bischoff stated he represents half of the population of Franklin County. He stated he agreed with Judge Cox's testimony and that there was "a real need" in the county for a magistrate.

After Commission discussion, a motion was made and seconded that the Commission endorse a magistrate for Franklin County beginning July 1, 2007. The motion was adopted by unanimous voice vote.

The next person to testify was Bill Bailey, President of the Seymour Chamber of Commerce. Mr. Bailey stated that the Commission had approved a second judge for the Jackson Superior Court last year. He said that provision had been included in courts legislation during the 2006 Session. However, he stated that when it became apparent during the session that Jackson County did not have the financial means to support the addition of a judge, that provision was removed from the legislation.

Mr. Bailey continued by stating the need for a second superior court judge still existed in Jackson County. He said the county still ranked near the top of the WCR* in severity of need. He said the local elected officials in the county were now prepared to support the new court.

The next person to testify was Rep. Terry Goodin. Rep. Goodin stated his House District

² The Indiana Trial Courts 2005 Weighted Caseload Report may be found at <http://www.in.gov/judiciary/admin/courtmgmt/wcm/2005-report.pdf>

includes part of Jackson County. However, Rep. Goodin said his testimony would be based more on his role as Superintendent of Crothersville Community Schools.

Rep. Goodin said there was a negative impact on students if cases involving their family members were dragged out because of an overloaded court system. He said he agreed that another judge was needed in Jackson County.

The next person to testify was Dr. Robert Schmielau, Superintendent of Seymour Community Schools. He stated he agreed with Rep. Goodin. He also said there was need for a family court in Jackson County.

After Commission questions concerning local support in Jackson County for the additional judge, Mr. Bailey said he would provide the Commission members with any additional evidence they required to show the new judge was supported this year and he would provide any evidence to legislators that they required during the 2007 Session.

After Commission discussion, a motion was made and seconded that the Commission again endorse a second judge for the Jackson Superior Court. The motion was adopted by unanimous voice vote.

The next person to testify was Judge Robert Lowe of the Putnam Superior Court. Judge Lowe distributed a report to the Commission (Handout #2) concerning the need for a second judge to serve on the Putnam Superior Court beginning in January of 2009.

Judge Lowe said that between 1978 and 2005 there had been a 73% increase in the number of cases filed in Putnam County and the county ranked near the top of the WCR* in severity of need. He also said that between 1990 and 2005 the population of the county had increased 21%.

Judge Lowe continued by stating that there is currently not enough room in the Putnam County Courthouse for a new court. However, he said the county had recently been given an old elementary school building and its grounds near the Courthouse. He said that between the acquisition of this property, current plans for certain agencies in the Courthouse to relocate, and other space for lease available near the Courthouse at reasonable prices, the county would be prepared to accommodate a new court by 2009.

Judge Lowe said that the Putnam County Council and the Putnam County Commissioners had created a commission to study all these issues. He said Putnam County officials understood that the county must proceed to address the need for a new court now.

The next person to testify was Judge Matthew Headley of the of the Putnam Circuit Court. Judge Headley said he had been on the bench for one and a half years. He stated his court heard every divorce and paternity case in Putnam County.

Judge Headley said his caseload made it impossible for him to set aside a full day for any one hearing. He stated that, even if no new government facilities were constructed in Putnam County, he felt enough space could be freed up to create a third courtroom for a new judge.

The next person to testify was Sen. Connie Lawson (whose Senate District includes Putnam County). Sen. Lawson said there was a great need for another judge in the county. She also said it was important to "have everybody on board" in the county and in agreement with the creation of a new court. Sen. Lawson said an endorsement by the Commission would send a message to the Putnam County Council and the Putnam

County Commissioners that they need to make some final determinations concerning the creation of a new court in the very near future.

After Commission discussion, a motion was made and seconded that the Commission endorse a second judge for the Putnam Superior Court beginning January of 2009. The motion was adopted by unanimous voice vote.

The next person to testify was Mark Goodpaster, Senior Fiscal Analyst from the Legislative Services Agency Office of Fiscal and Management Analysis. Mr. Goodpaster presented a memo to the Commission (Handout #3) with historical data on population and court filings for Dearborn, Ohio, Switzerland and Jefferson counties, an evaluation of the need for more judicial officers in these counties, and an evaluation of three organizational alternatives.

Mr. Goodpaster stated that while the utilization rates for Switzerland and Jefferson Counties are higher than state averages, no similar workload standards exist to determine whether more prosecuting attorneys are needed in Switzerland County. He indicated that if the Commission believes that if both more judges or magistrates and prosecuting attorneys are needed, then a new Switzerland County circuit should be created. He said that if the Commission believes that only judges or magistrates are needed, then either a new or court or a magistrate position should be created.

The next person to testify was Aaron Negangard, Prosecuting Attorney for the Dearborn County and Ohio County joint circuit. He said he was happy with the current system in place for Dearborn and Ohio Counties.

Mr. Negangard said that, while he was not opposed to the creation of a new circuit for Switzerland County, he did not want to see anything happen with Switzerland County that might adversely affect Dearborn and Ohio Counties. He stated that many of the options discussed for Switzerland County might lead to new burdens being placed on the joint judicial system in Dearborn and Ohio Counties and could lead to budget problems for local governments in those counties.

The next person to testify was Monica Hensley, Deputy Prosecuting Attorney for Switzerland County and President of the Switzerland County Bar Association. She said Switzerland County did not want to disrupt the Dearborn and Ohio joint circuit, but Switzerland County needed to be in its own judicial circuit.

Ms. Hensley said the WCR* also showed Switzerland County needed its own full-time judge. She also said the county had the space available for a courtroom for the circuit judge as well as for a prosecutor and a deputy prosecutor.

After Commission discussion, Sen. Bray stated the Switzerland County request still needed further analysis and the Commission would not make any endorsements during this meeting. Judge Baker stated he was willing to serve as a "liaison" among all the parties affected by the Switzerland County request to try and work out some solution before the final meeting of the Commission.

Sen. Bray announced the next Commission meeting would take place on Thursday, October 5, 2006, at 1:30 P.M.

Sen. Bray adjourned the meeting at 3:50 P.M.